

**REGULAR MEETING
of the
CITY OF RIALTO
CITY COUNCIL/REDEVELOPMENT AGENCY
RIALTO HOUSING AUTHORITY**

**MINUTES
December 8, 2009**

A regular meeting of the City Council/Redevelopment Agency of the City of Rialto was held in the City Council Chambers located at 150 South Palm Avenue, Rialto, California 92376, on Tuesday December 8, 2009.

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This meeting was called by the presiding officer of the Rialto City Council in accordance with the provisions of **Government Code §54956** of the State of California.

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CALL TO ORDER

Mayor Vargas called the meeting to order at 5:00 p.m.

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The roll was called and the following were present: Mayor Vargas, Council Members Robertson, Baca Jr., Scott and Palmer. Also present were Acting City Administrator Robb Steel, City Attorney Jimmy Gutierrez and City Clerk Barbara McGee.

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CLOSED SESSION

1. Conference with Legal Counsel - Existing Litigation - The City Council and Redevelopment Agency Board will discuss the following pending litigation pursuant to Government Code Section 54956.9(a):

(a) City of Rialto v. U.S. Department of Defense, et al. (Perchlorate)
(United States District Court Case No. EDCV 04-79 PSG(SSx))

2. Conference with Labor Negotiator regarding the following recognized employee organization pursuant to Government Code Section 54957.6:

Agency negotiator: Brad Neufield, BBK
Wayne McAfee

Employee organization: Rialto Police Benefit Association
Firefighters Union Local 3688
Mid-Management Bargaining Unit
General Bargaining Unit
CGMA Bargaining Unit
Fire Management Bargaining Unit

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Motion by Council Member Robertson, second by Council Member Palmer and carried by unanimous vote to go into Closed Session.

City Council went into Closed Session at 5:03 p.m. and returned at 5:40 p.m.

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CALL TO ORDER

Mayor Vargas called the meeting to order at 6:00 p.m.

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The roll was called and the following were present: Mayor Vargas, Mayor Pro Tem Baca Jr., Council Members Robertson, Scott and Palmer. Also present were Acting City Administrator Steel, City Attorney Gutierrez and City Clerk McGee.

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Pledge of Allegiance and Invocation

Council Member Ed Palmer led the pledge of allegiance and Pastor Harry Bratton – Greater Faith Grace Bible Church gave the invocation.

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CITY ATTORNEY'S REPORT ON CLOSED SESSION

City Attorney Jimmy Gutierrez stated that the City Council discussed the following items under Closed Session.

Item 1, City of Rialto v. United States Department of Defense, pertaining to perchlorate contamination. City Council heard a report but no action was taken.

Item 2, Conference with Labor Negotiators Brad Neufield and Wayne McAfee and all the employee organizations were discussed. They received a status report but no action was taken.

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PRESENTATIONS

Joe Flores Jr. President of BIDA invited everyone to BIDA's 4th annual Christmas Tree Lighting Ceremony this Saturday December 12 at 4:45p.m. at the corner of Riverside Ave. and Rialto Ave. Three children's choirs from local churches will be singing Christmas songs leading up to Santa and Mrs. Claus performing magic to light the Christmas Tree.

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CONSENT CALENDAR

A. WAIVE FULL READING OF ORDINANCES

1. Waive reading in full, all ordinances considered at this meeting.

B. APPROVAL OF WARRANT RESOLUTIONS

1. Resolution No. 20 (11/20/09)
2. Resolution No. 21 (11/27/09)

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C. APPROVAL OF MINUTES

1. Regular RDA/City Council Meeting–November 24, 2009

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D. MISCELLANEOUS

1. Request City Council to adopt **Resolution No. 5776** supporting Rentech's application to the United States Department of Energy for a Loan Guarantee for the development of the Rialto Renewable Energy Center.
2. Request City Council to adopt **Resolution No. 5777** to authorize the Mayor to send a letter to the Governor opposing the Air Management District's proposed Rule 2301 regarding the Control of emissions from new or redevelopment projects.
3. Request City Council to approve a rejection of all bids for the Willow Avenue Widening Project.
4. Request City Council to approve a First Amendment to the American Institute of Architecture Professional Services Agreement with Ian Davidson Landscape Architecture for the Citywide Bus Stop Enhancement Project in the amount of \$6,460.
5. Request City Council to award an AIA Professional Services Agreement to Miller Architecture Interior Planning for Design of the American with Disabilities Act Improvements to the Fitness Center entrance and Rialto Park Baseball Snack Bar in the amount of \$36,100 and adopt **Resolution No. 5778** amending the 2009-2013 Capital Improvement program to include the snack bar renovation program.
6. Request the Redevelopment Agency to approve Amendment No. 2 to the Exclusive Right to Negotiate Agreement with Fernando Acosta and adopt **RDA Resolution No. 692**.
7. Request the Redevelopment Agency to adopt **RDA Resolution No. 693** approving Amendment No. 1 to the Lease Agreement with W.C. Brown Welding, Inc.

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CONSENT CALENDAR

Motion by Mayor Pro Tem Baca Jr., second by Council Member Palmer and carried by unanimous vote to approve the Consent Calendar as presented with the exception of D-1.

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Motion by Mayor Pro Tem Baca Jr., second by Council Member Palmer and carried by a 4-0 vote to approve Consent Calendar Item D-1. Council Member Scott abstained.

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PUBLIC HEARING

TAB 1 – Amendment to City's 2005-2009 Consolidated Plan and 2008 and 2009 One Year Action Plans

Larry Thornburg, Director of Recreation and Community Services stated this is to reprogram some CDBG funds. The first amendment involves the CDBG recovery funds. Back in June City Council approved a CDBG committee recommendation to utilize \$322,000 in recovery funds for improvements to Margaret Todd Park. In August after they submitted the application to HUD, even though they had previously deemed the project eligible, it was later determined the project was not eligible for CDBG-R funding. The Committee instructed staff to look at funding for the Margaret Todd Project with \$250,000 of regular CDBG funding which was originally allocated to the Willow Street Widening Project and use the \$322,000 of CDBG-R funding for the Willow Street Widening Project. The second amendment relates to CDBG funding that was originally allocated for the Code Enforcement Program. Code Enforcement staff is advised that the strict CDBG requirements really don't allow the flexibility that they were hoping for and required for Code Enforcement activities. There was \$161,000 in CDBG funds that had originally been funded for Code Enforcement and in order to keep the Code Enforcement Program whole, the Public Works Director agreed to defer \$161,000 of General Fund Irrigation System Project that was budgeted for this year and reallocate those funds for Code Enforcement. The CDBG Committee is recommending that the \$161,000 that will come back from the Code Enforcement Program be reprogrammed to Margaret Todd Park Improvement Project. HUD does require they have a Public Hearing to receive public input on the proposed amendments.

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Mayor Vargas declared the Public Hearing open. No one came forward.

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Motion by Council Member Scott, second by Mayor Pro Tem Baca Jr. and carried by unanimous vote to close the Public Hearing.

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PUBLIC HEARING

TAB 1 – Amendment to City's 2005-2009 Consolidated Plan and 2008 and 2009 One Year Action Plans

Motion by Council Member Scott, second by Council Member Palmer and carried by unanimous vote to approve an Amendment to the City's 2005-2009 Consolidated Plan and 2008 and 2009 One Year Action Plans, to establish budget for CDBG Recovery Program approved by HUD and to adopt **Resolution No. 5779**.

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Mayor Pro Tem Baca Jr. stated that Margaret Todd Park is old a dilapidated and with reallocating this money to improve the Park for the families in the community.

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NEW BUSINESS

TAB 2 – Agreement with Fulbright & Jaworski LLP

City Administrator Garcia stated that this item has been pulled and will come back at the December 22nd Meeting.

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TAB 3 – Ordinance No. 1459 – Employer-Employee Relations

Wayne McAfee, Human Resources Director stated that this is a request to update the Employer-Employee Relations Ordinance. This step is necessary to rescind the outdated Ordinance that is currently in place. This Ordinance governs how they work with and negotiate with the seven employee associates within the City. Specifically meeting in good faith, meet and confer within certain guidelines. One of the goals during the last round of negotiations was to try to get this updated. It had been many years since it was updated. The key change was to provide a more streamlined approach and procedure regarding mediation. They felt mediation was a much more pliable plan as opposed to the fact finding that use to be in the ordinance. All of the seven bargaining groups approved this current Ordinance.

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City Attorney Gutierrez read the title of the Ordinance:

ORDINANCE NO. 1459

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIALTO, CALIFORNIA, REGARDING EMPLOYER-EMPLOYEE RELATIONS AND RULES AND REGULATIONS FOR THE CITY OF RIALTO

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Motion by Council Member Scott, second by Council Member Robertson and carried by a unanimous vote to introduce and pass to second reading of proposed ordinance No. 1459. The vote was: AYES: Mayor Vargas, Council Members Robertson, Scott, Baca Jr. and Palmer. NOES: none. ABSTAIN: none. ABSENT: none.

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NEW BUSINESS

TAB 4 – Sixth Amendment for General Security Services, inc.

Police Chief Mark Kling stated that this is to approve the Sixth Amendment to extend the Independent Contractor Agreement for General Security Services. This is the company that provides security services on a month-to-month basis for up to six months and not to exceed \$132,000. The City has been contracting with General Security since 1995 and the current month-to-month contract expires on December 31st. The Police Department just took over the administration of this contract from the Public works Department a few months ago. They are in the process of assessing what services General Security offers the City in addition to the locations they are providing security for, such as the Metrolink, city parks and city buildings. They haven't completed the analysis and are asking City Council to approve an extension of the contract for up to six months until June 30, 2010.

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Council Member Robertson stated upon looking at the distribution of where the funds will be pulled, she couldn't tell if the two accounts both said General Fund or if one happened to be RDA. Since some of the security services are provided in the redevelopment areas this could reduce the amounts in the General Fund.

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City Administrator Garcia stated that they will make the necessary adjustments.

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Motion by Council Member Robertson, second by Council Member Scott and carried by unanimous vote approve the Sixth Amendment to extend the Independent Contractor Agreement for the General Security Services Inc. City Security Contract on a month to month basis, up to six months in the amount of \$132,000.

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TAB 5 – Service Contract for delivery of FOG at the Wastewater Treatment Plant

Ahmad Ansari, Public Works Director stated that this is a request to award a Service Contract to Liquid Environmental Solutions for the delivery of Fats, Oils and Grease at the Wastewater Treatment Plant. The Wastewater Treatment Plant Fuel Cell Project has been completed and is currently in the commissioning phase. In order to increase the digesters methane gas production and to be able to generate the desired 900 kilowatts of electricity. The Fats, Oils and Grease need to be introduced to the system. Additionally as per the SGIP (Self Generation Incentive Program) Agreement, the City has with the Gas Company the City must secure a contract with a vendor capable of providing the FOG for the duration of the five years warranty period. This will establish the city's commitment to have the adequate methane gas to run the fuel cells at their full design capacity.

NEW BUSINESS

TAB 5 – Service Contract for delivery of FOG at the Wastewater Treatment Plant

Ahmad Ansari, Public Works Director stated for they received three proposals. Liquid Environmental Solutions presented the highest bid at \$.03 per gallon. Staff further negotiated with the vendor and they agreed to \$.05 per gallon. It is anticipated that approximately \$18,000 gallons of FOG per day would be delivered to the Wastewater Treatment Plant by this vendor. They anticipate generating \$100,000 in revenues annually which will be recorded in the Wastewater Fund Account.

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Council Member Scott stated that this is really interesting that they are now entering into a deal for FOG when a few months ago they tried to pass an Ordinance not allowing small businesses to put FOG in the System. This makes him wonder why.

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Council Member Robertson stated that she is glad to see that it will generate revenue. The Plant has been in operation for quite some time with the Chevron project.

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Council Member Scott asked if this project was generating 900kw of electricity.

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Ahmad Ansari, Public Works Director stated that the goal and capacity is 900kw. They are working out a testing period with Chevron whereby the whole system will be tested to see if the 900kw is attainable in late December. If it's not attainable they will need to go back and see where the flaws are.

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Council Member Scott asked how this affects the grant by the Gas Company.

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Ahmad Ansari, Public Works Director stated that this is somewhat irrelevant to that because the Gas Company requirement has been accomplished. The Gas Company has given the indication that they are going to give the \$4 million before the end of the year.

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ORAL COMMUNICATIONS

June Hayes, P.O. 2395, stated that the difference between her pouring the fat into the sink in hopes that it will eventually get to the wastewater plant and be eaten up and make energy and a vendor putting it in directly is a matter of heat. FOG coagulates and make nasty things happen in the sewer lines and causes overflows and contamination which is a major expense to the City. She encourages all citizens to put as little fats, oils and grease into the sewer line directly.

NEW BUSINESS

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TAB 5 – Service Contract for delivery of FOG at the Wastewater Treatment Plant

Motion by Council Member Robertson, second by Council Member Scott and carried by unanimous vote to award a Service Contract to Liquid Environmental Solutions for the delivery of Fats, Oil and Grease at Rialto's Wastewater Treatment Plant in the amount of \$0.05 per gallon and adopt budget **Resolution No. 5781**.

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TAB 6 – Project Advancement Agreement with SANBAG

Ahmad Ansari, Public Works Director stated that this is a request for City Council to approve a Project Advancement Agreement with SANBAG to reimburse the City for the completed traffic signal projects under Measure I 2010-2040 Nexus List. The City completed five traffic signal projects as part of the Nexus improvements. The total cost for the five projects was \$1,738,323. The cost reflected on the Nexus List was \$1,523,000. SANBAG allows the City to be reimbursed for the public share of the cost which is 60% of the lesser cost of the two. Therefore \$913,800 will be reimbursed to the City.

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Motion by Council member Robertson, second by Council Member Scott and carried by unanimous vote to approve a Project Advancement Agreement (PAA) with San Bernardino Associated Governments (SANBAG) for the reimbursement for the installation of Traffic Signal Projects on the Measure I 2010-2040 Nexus List in the amount of \$913,800 and adopt budget **Resolution No. 5782**.

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TAB 7 – Fourth Amendment with RW Beck for Phase I Wastewater Treatment Plant Upgrade

Ahmad Ansari, Public Works Director stated that this is a Fourth Amendment with RW Beck Inc. for their oversight services at the Wastewater Treatment Plant Upgrade Project Phase I. RW Beck was brought on board back in July 2007 to oversee the activities of the upgrade project also known as Chevron Project Phase I. There have been three amendments to extend RW Becks contract due to delays on the completion of the project. The actual construction of the Chevron Project has been completed as of last summer and all of the equipment has been installed. The commissioning phase of the project and making sure all the equipment components work together has been slow. Addition to the commissioning phase there are review of the design of Phase II and the remaining punch list remain to be completed so it's necessary to extend RW Beck Contract one more time. The proposed fee was \$178,820 and staff negotiated down to \$167,840. Funds are available in the Wastewater Account to cover the requested \$167,840.

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NEW BUSINESS

TAB 7 – Fourth Amendment with RW Beck for Phase I Wastewater Treatment Plant Upgrade

Motion by Mayor Pro Tem Baca Jr., second by Council Member Palmer and carried by unanimous vote to approve a Fourth Amendment with R.W. Beck Inc. for Phase I of the Wastewater Treatment Plant Upgrade in the amount of \$167,840.

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Council Member Scott left the dais at 7:26 p.m. due to a conflict of interest in regards to TAB 8.

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TAB 8 – Exclusive Right to Negotiate Agreement with Rentech Inc. and Amendment to Exclusive Right to Negotiate Agreement with Enertech Environmental Inc.

Robb Steel, Economic Development Director stated that this is a request to consider an Exclusive Right to Negotiate Agreement with Rentech Inc. and an Amendment to the Exclusive Right to Negotiate Agreement with Enertech Environmental Inc. They granted Enertech and Exclusive Right to Negotiate for approximately 20 acres at the south east edge of the Wastewater Treatment Plant. At the time it was their intent to be the Master Developer and bring in other types of tenants to the 20 acres to go along with the second phase of their plant. As they started getting into the negotiations it became clear that it will be more effective to deal with Rentech directly rather than through Enertech as the middleman. Rentech is a publically traded corporation and their intent is to build a facility here which will take urban green waste and convert it into a synthetic fuel and also produce electricity for export to other users. They have asked the Developer to deposit \$25,000 as the customarily do with these types of agreements to pay for the cost of negotiating the agreements.

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Motion by Council Member Palmer, second by Mayor Pro Tem Baca Jr. and carried by unanimous vote to adopt Exclusive Right to Negotiate Agreement between the Redevelopment Agency of the City of Rialto and Rentech, Inc. and the First Amendment to the Exclusive Right to Negotiate Agreement between the Redevelopment Agency of the City of Rialto and Enertech Environmental Inc. and to adopt **RDA Resolution No. 694** and **RDA Resolution No. 695**.

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Council Member Scott returned to dais at 7:30 p.m.

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NEW BUSINESS

TAB 9 – Purchase and Sale Agreement for the acquisition of 319 W. Jackson Street

John Dutrey, Housing Program Manager, stated that this is for the acquisition of 319 W. Jackson Street by approving a Purchase and Sale Agreement and also to enter into an Interim Management Agreement with Southern California Housing Resource and Development. Earlier this year they acquired several properties in the 300 W. Jackson area for a future project. Currently they have been in discussions with the developer to do such projects. They have one Affordable Housing Agreement being presented for consideration to utilize NSP funds and it will also come back in January to look at a second Affordable Housing Agreement which RDA Tax Credit funds will be used. The two agreements are being used to satisfy Federal requirements to utilize NSP funds. A total of \$220,000 to acquire 319 W. Jackson St.

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Mayor Pro Tem Baca Jr. asked what happens when they acquire the property and enter into a Management Agreement.

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John Dutrey, Housing Program Manager, stated that since the property is currently being utilized in four different units. The Developer would be responsible to manage the tenants and draw up some type of lease agreement and responsible to collect rents and cover any maintenance expenses at the property. When the Affordable Housing Agreement is in place it will have a separate Management Agreement to maintain the property until it's conveyed to the Developer Partner at the appropriate time. The Developer will then own the property and will continue to maintain the property. If any units become vacant during the interim period they will not have those units occupied by new tenants until the actual project is completed.

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Council Member Palmer stated that they had approved the Jackson Street Project before so he doesn't have a problem with this. When they have a tenant occupied property what is the timeline they are giving to remove the tenants for the necessary improvements.

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John Dutrey, Housing Program Manager, stated that the other four buildings they have acquired are now vacant so this will be the first building where there are tenants. In past practice the Developer was responsible to contact the tenants to sign a lease agreement which includes a crime free addendum. During that interim period they will continue to occupy the unit. If they fail to pay the rent or commit a crime they will be evicted.

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NEW BUSINESS

TAB 9 – Purchase and Sale Agreement for the acquisition of 319 W. Jackson Street

Council Member Palmer stated that his question was what was the timeline they were giving to vacate the tenants before they start improvements.

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John Dutrey, Housing Program Manager, stated that the goal is to commence the project in late 2010 so it may be about 10 months.

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Motion by Council Member Robertson, second by Council Member Scott and carried by unanimous vote adopt **RHA Resolution No. 0009-09** approving a Purchase and Sale Agreement for the Acquisition of 319 W. Jackson Street and approving an interim Management Agreement with Southern California Housing Resource and Development.

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TAB 10 – Affordable Housing Agreement and Cooperation Agreement with Southern California Housing Resource and Development

John Dutrey, Housing Program Manager, stated that this item deals with 300 West Jackson Street in regards to an Affordable Housing Agreement and Cooperation Agreement between the Rialto Housing Authority, City of Rialto and Southern California Housing Resource and Development. They with two properties, 350 and 360 W. Jackson Street. A year ago the City received \$24 million as part of the Neighborhood Stabilization Program to address the foreclosure crisis. City Council approved the Acquisition, Rehabilitation and Rental Program where \$1.4 million was allocated. These funds can only be used for very low income households as required by the NSP regulations. In September 2009 RFQs went out to obtain an Affordable Housing Developer to be part of the program. In response to this they had two companies submit proposals. Southern California Housing Resource and Development met the requirements to do a project at 350 and 360 W. Jackson Street. The Developer has submitted a proposal to conduct a project for a total of eight units. It includes all the repairs interior and exterior for both buildings and renting the units as an affordable housing project for very low income households. In addition the developer will own and manage the buildings. The total project cost is a little more than \$2 million. The funding for this project is proposed to utilize \$1.4 million from NSP funds and \$634,000 from the RDA low/mod housing fund. The timeline to start the rehab portion is proposed to be late 2010 with a completion date of 2011. Both properties will be conveyed to the Developer prior to construction beginning. There will be strict management requirements, tenants to be screened and rules to be enforced. There is also a provision where they provide pre-development expenditures to assist the developer with those costs of \$24,000.

NEW BUSINESS

TAB 10 – Affordable Housing Agreement and Cooperation Agreement with Southern California Housing Resource and Development

John Dutrey, Housing Program Manager, stated there are two Affordable Housing Agreements for the West Jackson Project because of the regulations of the Neighborhood Stabilization Program.

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Mayor Pro Tem Baca Jr. stated looking at the Developer fees is \$201,000 and \$119,000, what is this for.

John Dutrey, Housing Program Manager, stated as part of the terms of the agreement and typical for these types of affordable housing projects. One fee is to conduct the project \$201,000. These are acceptable amounts and the amount is within proper standards.

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Mayor Pro Tem Baca Jr. stated he sees an amount for \$1,365,000 from NSP funds. Are they not waiting for potentially more NSP funds?

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John Dutrey, Housing Program Manager, stated yes, he was hoping to give an answer today but they have not heard back yet. The City applied for \$10,000,000 last year and waiting for the award announcements.

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Mayor Pro Tem Baca Jr. stated according to the report it states \$634,000 of RDA low/mod money. If they have more NSP money coming then he would like to stretch these low/mod housing funds out. One of the concerns he had was how much was it going to cost to deal with East Jackson and he was told roughly \$200,000. Now they are spending close to \$2 million for two pieces of property. Part of it is NSP funds but it's the \$634,000 in low/mod funds which he has a problem with. They can begin to stretch those dollars out and start to hold these landlords more accountable. He thinks they are doing a pretty good job with the foreclosures and take that same type of strategy. He thinks \$2million on two pieces of property is too much. Spending this low mod money and yet until they find out the results of the NSP grant. He is opposed to this project not so much addressing the issue. They have issues on Shamrock and Ramona and they could be stretching the dollars out. He is opposed to spending this money right now until they wait for the NSP funds.

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NEW BUSINESS

TAB 10 – Affordable Housing Agreement and Cooperation Agreement with Southern California Housing Resource and Development

Council Member Robertson said they are anticipating the NSP dollars do they have a sense as to when?

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John Dutrey, Housing Program Manager, stated he anticipated last week but it still has not come in yet. When they applied for the NSP funds it ranged from \$5 million to \$10 million and they applied for the maximum. If they are awarded the maximum about \$2.6 million will be eligible to be used for these types of projects.

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Council Member Robertson asked if it was possible upon that notice to change out the \$634,000 or if not is it possible to put what was comparable to what they put in East Jackson.

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John Dutrey, Housing Program Manager, stated in regards to the \$634,000 if they are awarded NSP funds they would love to take the opportunity to use those funds and supplement the amount. He is not sure the NSP 2 regulations allow for that since these properties have already been acquired. Typically the utilization of NSP funds along with NSP 2 funds requires them to purchase a property that has already been foreclosed. The question is since this property was already foreclosed and even though they used NSP funds can they also use NSP 2 funds. He recommends that staff investigate it and bring the item back or look into it and continue to use low/mod funds if they are not allowed to use NSP 2 funds. He will check with HUD to know for sure. If they are awarded NSP2 funds they will utilize those dollars also to acquire additional properties at West Jackson. They could have used NSP 2 funds to acquire 319 W. Jackson St. but it was the timing. If there are additional foreclosures on West Jackson they will be able to use NSP 2 funds for those acquisitions. As a result it will reduce the burden on the low/mod housing fund.

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Council Member Robertson stated depending on the outcome if they can't use those funds they still need to move forward. What is the ultimate goal?

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John Dutrey, Housing Program Manager, stated the ultimate goal is to acquire the whole Jackson Street area. There are a total of 60 units and they have a proposal from the developer to do a 40 unit project. The issue is funding and they have enough funding to do a 40 unit project but come January they will try for a 60 unit project. This all depends on negotiations and acquisitions.

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NEW BUSINESS

TAB 10 – Affordable Housing Agreement and Cooperation Agreement with Southern California Housing Resource and Development

ORAL COMMUNICATIONS

Mayor Pro Tem Baca Jr. stated that the bigger picture is the strategy and they have other parts of the City they have to deal with. They have to look at stretching their dollars and look at other parts of the City.

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Sara Garcia, Rialto Resident, stated that she use to live in that area and made many calls because of the drug trafficking. There are those pockets of crime areas where there are absentee landlords.

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Council Member Scott stated that he supports buying these units and doing something with them but he also supports Mayor Pro Tem Baca Jr's concept in the surrounding neighborhood. One of the failures in the crime area is that they haven't addressed the surrounding area. They have done it with Willow Winchester and other places but they displaced the crime. The crime is still in the City and a lot is a result of absentee landlords. He would like to see a more comprehensive program where they go outside the surrounding area and start making these absentee landlords responsible frothier tenants. He would like to discuss it in EDC and bring it to City Council.

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Council Member Palmer stated that there are programs out there. The crime free multi-housing program that San Bernardino County has and would like to get it back in Rialto. This is not just for absentee owners but everyone who rents in the City should be required to participate in the program.

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Council Member Robertson stated that she thinks a workshop would be good. When she was on the EDC and they started on this path with the Willow/Winchester Project they had a presentation for a more comprehensive housing strategy in the community. It was to tackle the activity not just the housing. She'd like to know what happened with that.

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John Dutrey, Housing Program Manager, stated first he agrees that they can't just do one street or half a street. They need to focus on an area and knows they need to do enforcement work. There are other apartment areas near Willow/Winchester. Next meeting he will make a presentation to give an update on the foreclosure activity and the Neighborhood Stabilization Program. He is also going to talk about the inspection enforcement. They have gained a lot in tackling multi-family homes. Another thing that worked well in the past is the receivership.

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NEW BUSINESS

TAB 10 – Affordable Housing Agreement and Cooperation Agreement with Southern California Housing Resource and Development

Mayor Vargas commended staff for their work and continuing with the project.

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Motion by Council Member Robertson, second by Council Member Palmer and carried by a 4-1 vote to adopt **Resolution No. 5783**, **RHA Resolution No. 0010-09**, **RDA Resolution No. 696** and **RHA Resolution No. 0011-09** approving an Affordable Housing Agreement and Cooperation Agreement between Southern California Housing Resource and Development, the City of Rialto and the Rialto Housing Authority with use for Neighborhood Stabilization Program funds for 350 and 360 West Jackson Street. Mayor Pro Tem Baca Jr. voted No.

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UNFINISHED BUSINESS

TAB 11 – Ordinance No. 1456 – Regulating Wireless Telecommunications Facilities

Council Member Scott stated that he has read the letter from RELCOM and it seems to make sense to him. He wonders if there is an opinion about the Ordinance versus what is in the letter to address his concerns.

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Mike Story, Development Services Director stated that the items they have included in the Ordinance are based on other ordinances they have researched from other communities. The draft document went before the EDC and then City Council. They have gone over some of the items and staff feels they are appropriate for the direction they want to go in with wireless facilities especially related to the pole locations and removal of existing facilities that are there.

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City Attorney Gutierrez stated that they don't have any regulations of these cell tower facilities in the City. In the past the practice was to enter into leases with the various cell phone operators that have resulted in a wide difference in regulations. As a result with some of those leases they are encountering some problems with relocating some of the facilities. This is why the ordinance is needed so they have a standard to achieve to. His recommendation is to proceed to adopt this Ordinance. To hear out the gentleman who wants to speak and if they feel he has any validity they will be willing to sit down and reconsider some of the provisions. If they are justified they will come back with amendments. But because they don't have any regulations he recommends moving forward.

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ORAL COMMUNICATIONS

James Rogers, RELCOM Assoc. on behalf of T-Mobile Wireless, stated he works with 8 jurisdictions in the inland empire and Rialto is the only that doesn't have a wireless Ordinance and commends them on preparing one. His job processing the entitlements through the jurisdictions is easier when he knows what they want.

UNFINISHED BUSINESS

TAB 11 – Ordinance No. 1456 – Regulating Wireless Telecommunications Facilities

James Rogers, RELCOM Assoc. on behalf of T-Mobile Wireless, stated his concern is that they just found out about this Ordinance because one of the land owners they are working with forwarded a newspaper article. He doesn't want to go over every item in the letter but the two issues that concern them the most is 18.11.040 (a) which states where the permitted uses are with a conditional use permit or conditional development permit. It allows it in R-1. But then down at the bottom it says all other zones residential land uses not permitted. He is not really sure what exactly that really means. Perhaps this can be clarified in the Ordinance. Secondly, when they take that section which says "a stealth wireless facility is permitted with a CDP in R-1 zone" but when you go to subsection 18.11.050.a it says all facilities must be 500 feet distance from a residential zone or property. Well if they are on a residential zone property how can they be 500 feet away from it. This is a conflict he doesn't understand how those work together. If it had said a non-stealth facility must be 500 feet away from residential use or zone then he would understand. The other main item is the City is trying to encourage and promote co-location so there are multiple carries with their antennas on a single facility rather than multiple ones. The Ordinance as proposed right now provides for a height limitation of order of the underline zone is. He doesn't know all the height limitation of every zone in the City is. He does know for R-1 its 35 feet. This is rather low for a carrier. Since carriers have to have a vertical separation of at least 10 feet of their antennas so they are not interfering with each others signals so the next carrier would be at less than 25 feet and this in not practical. There are other comments in the letter but those were the two main ones that really concerned them.

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Mayor Pro Tem Baca Jr. stated that he is not sure what the other cities have done but they don't homes with a bunch of cell towers. His logic of the 500 feet is a safety issue. He feels they need to move forward by putting standards in place. If they need to use clean up language but at the same time set those standards.

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Council Member Scott stated that he hears what he is saying but the only way he can support this is that it would come back to City Council at the next meeting with whatever revisions necessary. They have too many times passed an ordinance that the intent of that ordinance changes from year to year such as the apartment inspection ordinance which was intended and passed to clean up blighted apartment complexes and now they inspect new complexes at huge dollar sacrifices to landlords. He could support this if he was assured that its going to come back to the next Council Meeting and any corrections will be cleaned up at that point.

UNFINISHED BUSINESS

TAB 11 – Ordinance No. 1456 – Regulating Wireless Telecommunications Facilities

Council Member Scott stated he is reading the letter and see some discrepancies or areas of clarification. He doesn't see taking two more weeks really does to them. He won't vote for it unless there is an agreement between City Council that it comes back for revisions in two weeks.

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City Attorney Gutierrez stated that if this Ordinance is adopted today it will not take effect for 30 days. Between today and then they can meet with Mr. Rogers and come back with revisions. We will have changes within the month before this takes effect. At that time they can adopt an Urgency Ordinance so there won't be any lapse between the effective date of this Ordinance and the effective date of a revised Ordinance.

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Council Member Robertson stated that she would like Mr. Rogers concerns clarified because she has the same concerns.

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James Rogers, RELCOM Assoc. on behalf of T-Mobile Wireless, stated he agrees with Mayor Pro Tem Baca Jr. for the need for standards. 500ft far exceeds anything he is aware of. Typically the separation is twice the tower. The other thing in terms of the R-1, if not a typical for the jurisdictions to allow the use in an R-1 zone. Typically they are not residential uses on that R-1 zone which is why they end up with a lot of carriers talking to churches.

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Council Member Palmer stated that they depend upon to staff when they bring an Ordinance forward that they have done research on it and input from people in the industry. He doesn't like to pass ordinances where they will come back in two weeks and possibly change. He thinks they should look at it again then bring it back.

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Mayor Vargas asked how important is this Ordinance. What happens if they don't approve it today.

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Mike Story, Development Services Director stated that they can go back and speak to Mr. Rogers and the City Attorney to look up some of the language. It's not affecting anything they are moving forward with. They just want to get it in place to make sure they have something when they are approached in the future. He can see the conflicted created by reading it regarding the 500 ft. separation.

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UNFINISHED BUSINESS

TAB 11 – Ordinance No. 1456 – Regulating Wireless Telecommunications Facilities

Mayor Vargas stated that she agrees with what everyone is saying. They received the letter from Mr. Rogers today and she didn't have the opportunity to read the letter and find out exactly what the concerns were. She recommends they bring it back in two weeks at the next City Council Meeting.

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City Attorney Gutierrez stated that he doesn't think they can get it back on for the December 22nd Meeting but they can do it for January.

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No Action was taken on TAB 11.

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TAB 12 – proposed Ordinance No. 1457 – Permitted Sidewalk Signs

Council Member Scott stated that he was not here when these items were first brought forward. As he reads TAB 12, the Ordinance only seems to be related to the downtown area? It specifically referred to a section of the downtown and doesn't refer to any other areas of the City. When this came before the EDC it had included the entire Business District along Foothill and downtown. It doesn't say that in this Ordinance and he needs clarification if he and Council Member Palmer have a Conflict of interest or not.

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City Attorney Gutierrez stated that he thinks as written it is because it makes a distinction with public sidewalk property only in the downtown area not citywide.

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Council Member Scott stated then having said that he declares a conflict of interest on this item because he has a business in that area. He has an additional legal question, under State Law is he allowed to go to the podium and speak on this item?

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City Attorney Gutierrez stated he has to look at the statute, he doesn't remember if he is allowed or not.

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Council Member Scott left the dais at 7:35 p.m.

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UNFINISHED BUSINESS

TAB 12 – proposed Ordinance No. 1457 – Permitted Sidewalk Signs

Council Member Palmer stated it may be poorly written but it is a Citywide Ordinance. This is the way it was presented at the last City Council Meeting at the first reading. There are properties throughout the city and commercial zone that are privately owned which allows the "A" frame signs. There is only the Riverside Ave. area that has the public sidewalk with no private property in front of it to put it. So if you have a business in the downtown then you are allowed to put it in the public right-of-way.

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City Attorney Gutierrez stated that is correct. It's a citywide ordinance in all commercial areas but in the downtown commercial area it's also on public property, where it's not on public property in other citywide commercial areas.

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Mayor Pro Tem Baca Jr. asked if there are other areas other than downtown that are considered public.

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Mike Story, Development Services Director stated that if they hadn't addressed the downtown the way they did it would have been prohibited in the downtown because then properties couldn't put it in front of their business. They are only dealing with private property. In a shopping center and they want to put a sign in front of the business you can do that and they didn't want people to move that sign to the public right-of-way. They had to distinguish the two from commercially and private and the public and downtown. After research this was the one they had to address specifically. Other parts of the downtown, north of the railroad track they don't have this issue because they have private properties.

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Council Member Robertson stated she doesn't believe it's changed since the last time it came before them so it's the same language. Do they have any other place in the City where they could have in the future a commercial area that would be with public front?

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Mike Story, Development Services Director stated that he doesn't think so. For future development in the Renaissance Area they will have their own specific plan and development standards. There is always some setback they will not have commercial areas next to the sidewalk. When they researched this and they looked at the uniqueness of the downtown they had two distinctions, commercial/private and commercial.

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UNFINISHED BUSINESS

TAB 12 – proposed Ordinance No. 1457 – Permitted Sidewalk Signs

Council Member Palmer stated that he never asked if there was a conflict because it's a citywide Ordinance. The fact that he owns a business in the area but also he owns buildings where he rents out to businesses so it's not his sign that would be put out.

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City Attorney Gutierrez stated correct as long as he is not operating the business that would benefit from the sign.

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Council Member Robertson stated that she does have some concerns and she would like hear Ed Scott the business owner as a public person would like to say in response to this Ordinance.

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City Attorney Gutierrez stated right he doesn't recall if Ed Scott has a right to speak. He can check and they can hold this over until the next meeting for December 22nd because he doesn't want to guess wrong.

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Council Member Robertson stated well he declared a conflict and can't act as an elected official but then it's preventing him as a citizen to have the opportunity to speak. Yes, I'd say just place it back on for the next City Council Meeting.

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No Action was taken on this item.

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Council Member Scott returned to the dais at 7:40 p.m.

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UNFINISHED BUSINESS

TAB 13 – proposed Ordinance No. 1458 – Fences, Hedges and Walls

City Attorney Gutierrez read the title of the Ordinance:

ORDINANCE NO. 1458

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF RIALTO, CALIFORNIA, AMENDING SECTION
18.56.030 OF THE RIALTO MUNICIPAL CODE
PERTAINING TO FENCES, HEDGES AND WALLS**

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Motion by Mayor Pro Tem Baca Jr., second by Council Member Palmer and carried by unanimous vote to adopt **Ordinance No. 1458** amending Section 18.56.030 of the Rialto Municipal Code as it pertains to fences, hedges and walls. The vote was: AYES: Mayor Vargas, Council Members Robertson, Scott, Baca Jr. and Palmer. NOES: none. ABSTAIN: none. ABSENT: none.

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ORAL COMMUNICATIONS

Rafael Trujillo, Representative for Congressman Baca, thanked the Department of Public Works for working with them to submit three proposals for the Water Resources Development Act. He invited everyone to the Congressman's Holiday Open House on December 17 at 5:00pm.

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REPORTS

Council Member Robertson wished everyone Happy Holidays. She looks forward to a prosperous and exciting 2010.

She thanked City Clerk McGee for assisting with the World AIDS Day and AIDS Walk. She thanked Mayor Pro Tem Baca Jr. for coming out and joining in the walk. She also thanked Sara Garcia who is always a big supporter.

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Council Member Scott stated he attended the Energy and Environment Committee at SCAG on Thursday. He represents SANBAG on that committee. The Gas Co. was very vocal on wanting to assist those who are having a hard time paying their gas bill right now. The Gas Co. is in the process of putting in Smart Meters on all meters which will be accomplished by 2017. Part of their program will allow water meters to be connected to their system to be read. He would like for the City to make contact with So. Cal. Gas to team with them under their program.

He stated that there was a presentation made to SANBAG on vertical windmills for uses in parks. They had talked about areas by the Wastewater Treatment Plant for windmills. They should look at the possibility of vertical turbans in parks to provide electricity for the little leagues since the City doesn't charge the leagues.

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Council Member Palmer stated that this past weekend at the Rialto Playhouse they held a charity event called Singing, Stories and Santa to benefit some charities.

He invited everyone out to the Christmas Parade and vendor fair this weekend.

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Mayor Pro Tem Baca Jr. stated that he would like to adjourn the meeting in memory of Fire Chief Espinosa's mother Dale Reff who recently passed away.

He attended the Rialto Girls Basketball Tournament and congratulated them for taking second place.

He did attend the AIDS Walk over the weekend and supports to continue to educate people.

He congratulated Alvin Baker whose son won a Pee Wee League Championship.

REPORTS

Mayor Pro Tem Baca Jr. stated that he visited Teamsters Local 63 here in Rialto and one of the things they did was fill care packages for the troops in Afghanistan.

He invited everyone to the Christmas Parade and festivities.

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Mayor Vargas stated that she happened to watch an Oprah segment where Oprah was visiting the men and women in hospitals who served in Iraq. She praised the troops for all they do for our country and to remember them during the holidays.

She encouraged everyone to stay positive even during the bad economy.

She stated she heard it was going to rain on the Christmas Parade and she invited everyone to attend the parade and bring an umbrella.

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ADJOURNMENT

Motion by Council Member Robertson, second by Council Member Palmer and carried by unanimous vote to adjourn the City Council Meeting in memory of:

Dale Reff

The City Council adjourned at 8:00 p.m.

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MAYOR GRACE VARGAS

ATTEST:


CITY CLERK BARBARA A. MCGEE